



May 8, 2020

VIA ECF

Honorable Katherine Polk Failla
United States District Judge
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

MEMO ENDORSED

Re: *Liza Curry v. New York City Department of Education, et al.*
Docket No.: 19-cv-04450 (KPF)

Dear Judge Failla:

This firm represents the Plaintiff, Liza Curry, in the above-referenced matter, against Defendants New York City Department of Education and Kyle Brillante, individually and in his official capacity as principal of The Highbridge Green School, MS 361, for alleged violations of the Americans with Disabilities Act, Title VII of Civil Rights Act, New York State Human Rights Law and New York City Human Rights Law. On April 15, 2020, Plaintiff filed a motion for leave to file an amended complaint. D.E. 25-27. On May 5, 2020, Defendants filed their opposition papers with respect to that motion. D.E. 29-30. Plaintiff now writes to request the Court's guidance regarding whether Plaintiff is permitted to submit reply papers with respect to that motion and, if permitted, to request a brief extension of time to file Plaintiff's reply papers.

As an initial matter, Plaintiff and Defendants disagree whether Plaintiff is permitted to file reply papers with respect to her motion for leave to amend. On April 23, 2020, the Court entered an order setting a deadline for Defendants to file their opposition papers to Plaintiff's motion. D.E. 28. That order did not discuss Plaintiff's anticipated reply papers and, as a result, did not provide a deadline to submit them. Because the Court's order included a deadline for Defendants to file their opposition papers but omitted a deadline for Plaintiff to file her reply papers, Defendants contend that Plaintiff is not permitted to file reply papers. However, the Court's order does not include any language precluding Plaintiff from filing reply papers. Ordinarily, unless the Court orders otherwise, a moving party serving a motion on notice is permitted to submit reply papers pursuant to Rule 6.1(b) of the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York.¹ Therefore, Plaintiff contends that she is permitted to file reply papers pursuant to Local Rule 6.1(b), as there is no order precluding Plaintiff from filing reply papers. As such, Plaintiff respectfully requests that the Court provide guidance indicating whether Plaintiff is permitted to file reply papers in support of her motion for leave to amend her complaint.

¹ Similarly, Section 4(B) of Your Honor's Individual Rules of Practice in Civil Cases prescribes certain rules for reply papers in civil motions, implying that reply papers are generally anticipated during civil motion practice.

If Plaintiff is permitted to file reply papers, Plaintiff's reply would be due on May 12, 2020, pursuant to Local Rule 6.1(b). Unfortunately, Plaintiff's counsel currently has an unusually active motion practice schedule in several matters, during both this past week since Defendants filed their opposition papers and next week, which includes motion papers also due on May 12, 2020 in another matter and in multiple other matters during the following days. Thus, based on Plaintiff's counsel's litigation schedule, as well as the uncertainty of whether a reply is permitted, Plaintiff seeks an eight-day extension of time to serve her reply papers.

Accordingly, if Plaintiff is permitted to file reply papers, Plaintiff respectfully requests that the Court extend her time to file reply papers in support of her motion for leave to amend her complaint from May 12, 2020 to May 20, 2020. As noted above, Defendants' position is that Plaintiff is not entitled to file reply papers. However, Defendants have indicated that if Plaintiff is permitted to file reply papers, Defendants consent to Plaintiff's requested extension. This is Plaintiff's first request for an extension of this deadline.

Plaintiff thanks the Court for its time and consideration of these requests.

Respectfully submitted,

/S/ David D. Barnhorn, Esq.
DAVID D. BARNHORN, ESQ.

C: All Counsel of Record via ECF

Application GRANTED. Plaintiff shall be permitted to file a reply brief in further support of her motion to file an amended complaint, and shall be given until May 20, 2020, to do so.

Dated: May 11, 2020 SO ORDERED.
New York, New York



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE